

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

JOHN D. CERQUEIRA,

Plaintiff,

v.

AMERICAN AIRLINES, INC.,

Defendant.

Civil Action No. 05-11652-WGY

**NOTICE AND SUPPLEMENT Re: JOINT PRETRIAL MEMORANDUM**

Pursuant to the Procedural Order entered on November 28, 2006, the parties hereby advise the Court that they filed a joint pretrial memorandum on November 27, 2006, in accordance with Local Rule 16.5(d). The parties hereby supplement the joint pretrial memorandum as follows.

1. The parties certify that they met by telephone on December 11, 2006, to discuss and negotiate settlement of the action.
2. The parties have attached supplemental witness lists including the purpose of the testimony.
3. The parties have attached amended lists of proposed exhibits, in expected order of introduction, and marked in conformance with the instructions in the Procedural Order. Plaintiff has provided defendant a marked set of the exhibits.

Respectfully submitted,

**JOHN D. CERQUEIRA**

By his attorneys,

/s/ Michael T. Kirkpatrick

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**AMERICAN AIRLINES, INC.**

By its Attorneys,

/s/ Amy Cashore Mariani

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Dated: December 11, 2006

**Plaintiff's Proposed Witnesses**

1. John D. Cerqueira Aventura, FL Purpose: fact	8. John Ehlers Concord, MA Purpose: fact
2. Barry M. Blumenthal, D.O. Aventura, FL Purpose: medical	9. Ynes Flores Lynn, MA Purpose: fact
3. Richard S. Faulk, M.D. Boca Raton, FL Purpose: medical	10. Craig Marquis Arlington, TX Purpose: fact
4. Douglas R. Laird Reno, NV Purpose: expert	11. Amy Milenkovic St. Paul, MN Purpose: fact
5. Custodian of Records Massachusetts State Police Framingham, MA Purpose: record custodian	12. Lois Sargent Salem, MA Purpose: fact
6. Donald Ball Groveland, MA Purpose: fact	13. Nicole Traer Weymouth, MA Purpose: fact
7. Rhonda Cobbs Arlington, TX Purpose: fact	14. Sally Walling Hampton, NH Purpose: fact

Plaintiff expects to present the testimony of Drs. Blumenthal and Faulk by videotaped deposition.

Plaintiff may present the testimony of Mr. Ball, Ms. Cobbs, Mr. Ehlers, Mr. Flores, Mr. Marquis, Ms. Milenkovic, Ms. Sargent, Ms. Traer, and Ms. Walling by deposition if they are not available at time of trial.

**Defendant's Proposed Witnesses Likely To Be Called At Trial**

1. Sally Walling Hampton, NH Purpose: fact	5. Craig Marquis Arlington, TX Purpose: fact
2. Lois Sargent Salem, MA Purpose: fact	6. Martin Kelly, M.D. Chestnut Hill, MA Purpose: expert
3. Amy Milenkovic St. Paul, MN Purpose: fact	7. John Beardslee The Woodlands, TX Purpose: expert
4. John Ehlers Concord, MA Purpose: fact	

**Defendant's Proposed Witnesses Who May Be Called At Trial**

1. Donald Ball Groveland, MA Purpose: fact	7. Trooper Fredrick F. Yee East Boston, MA Purpose: fact
2. Ynes Flores Lynn, MA Purpose: fact	8. Trooper Joseph J. Boike East Boston, MA Purpose: fact
3. Nicole Traer Weymouth, MA Purpose: fact	9. Trooper Donald J. Ventura East Boston, MA Purpose: fact
4. Rhonda Cobbs Arlington, TX Purpose: fact	10. Trooper David Crowther East Boston, MA Purpose: fact
5. John Cerqueira Adventura, FL Purpose: fact	11. Oren Ashmil Hollywood, FL Purpose: fact
6. Trooper Daniel E. Sullivan East Boston, MA Purpose: fact	12. Daniel Vittorio a/k/a Vittorio Rokah Hollywood, FL Purpose: fact

Barring the unforeseen unavailability of the witnesses identified above, AA does not anticipate that it will introduce any testimony by way of deposition except for impeachment and rebuttal purposes. AA has counter-designated testimony of plaintiff's treating physician, Barry Blumenthal, and treating psychiatrist, Richard Faulk.

**PROPOSED EXHIBITS TO WHICH THERE IS NO OBJECTION**

Subject to any redactions that may be necessary based on the resolution of the pending motions *in limine*, the parties have agreed that the following exhibits may be admitted at trial.

ID No.	Description	Dep. ID No.	Bates No.
1	Passenger Itinerary		CRQ 0001
2	Boarding Pass		CRQ 0002
3	Credit Card Refund Receipt		CRQ 0003
4	Orbitz Travel Document		CRQ 0004-5
5	E-Mail Exchange between AA Customer Relations and John D. Cerqueira	AA 0037 is Cerqueira Deposition Exh. 4	AA 0036-38
6	E-mail Message from John D. Cerqueira to American Airlines		CRQ 0007
7	American Airline's E-mail Message to John D. Cerqueira on January 6, 2004	Cerqueira Deposition Exh. 5	CRQ 0008
8	Detail Note, Event ID: 03122856. SS CCRO History.	Deposition Exh. 14	AA 0021
9	Detail Note, Event ID: 03122856. Passenger Name Record.	Deposition Exh. 12	AA 0023-27
10	Detail Note, Event ID: 03122856. Event Note	Deposition Exh. 13	AA 0028
11	2002 Tax Return		CRQ 0331-359
12	2003 Tax Return	Cerqueira Deposition Exh. 23	CRQ 0360-380
13	2004 Tax Return	Cerqueira Deposition Exh. 24	CRQ 0381-395
14	2005 Tax Return		CRQ 0457-468
15	Prescription Records		CRQ 0469-0476

16	Detail Note, Event ID: 03122856. Activity Note.	Deposition Exh. 11	AA 0022
17	AMR Event Call Center Report of Sally Walling	Deposition Exh. 1	AA 0018-20
18	AMR Event Call Center Report of Lois Sargent	Deposition Exh. 5	AA 0012-14
19	AMR Event Call Center Report of Amy Milenkovic	Deposition Exh. 9	AA 0015-17
20	Detail Note, Event ID: 03122856	Deposition Exh. 16	AA 0035
21	Detail Note, Event ID: 03122856. Notification Note, Aircraft Routing, Crew List, DM Delay Message, Flight/Gate Info, Passenger List	Deposition Exh. 18	AA 0029-34

**PLAINTIFF'S PROPOSED EXHIBITS TO WHICH DEFENDANT OBJECTS**

ID No.	Description	Defendant's Objection	Plaintiff's Response
A	Amended Complaint (Doc. No. 3)	Pleadings inadmissible; FRE 401-403, 802	Necessary to identify admissions in Answer; relevant to liability; FRE 802(d)(2). Impeachment.
B	Defendant's Answer to Plaintiff's Amended Complaint (Doc. No. 5)	Pleadings inadmissible; FRE 401-403, 802	Admissions relevant to liability; FRE 802(d)(2). Impeachment.
C	American Airlines's Answers to Plaintiff's First Set of Interrogatories (Deposition Exh. 2)	FRE 401-403, 802	Admissions relevant to liability, punitive damages, and injunctive relief; FRE 802(d)(2). Impeachment.
D	American Airlines's Supplemental Answers to Plaintiff's First Set of Interrogatories	FRE 401-403, 802	Admissions relevant to liability, punitive damages, and injunctive relief; FRE 802(d)(2). Impeachment.
E	Massachusetts State Police Daily Administrative Log (included in Cerqueira Deposition Exh. 21) (CRQ 0010)	See motion in limine	See opposition to motion in limine



F	NASA Aviation Safety Report of Lois Sargent (Deposition Exh. 6)	401-403	Relevant to liability.
G	Letter of June 14, 2004, from Alec Bramlett to Samuel Podberesky (Deposition Exh. 15) (AA 0009-11)	FRE 401-403, 802	Contains admissions relevant to liability; FRE 802(d)(2).
H	Insurance Notices (CRQ 0212-216, 218, 220-223)	FRE 401-403, 802	Relevant to damages; FRE 803(6).
I	Blumenthal Curriculum Vitae (Blumenthal Deposition Exh. 1) (CRQ 0448-451)	FRE 802	FRE 803(6)
J	Psychiatry Referral (Blumenthal Deposition Exh. 2) (CRQ 0165)	FRE 802	FRE 803(3); 803(4); 803(6).
K	Faulk Curriculum Vitae (Faulk Deposition Exh. 1) (CRQ 0446-447)	FRE 802	FRE 803(6)
L	Medical Records (Faulk Deposition Exh. 2) (CRQ 0166-174, 453-456)	Objections to portions - FRE 401-403, 602, 802	FRE 803(3); 803(4); 803(6).
M	Kudwa Hotline Message, September 20, 2001 (Second page is Deposition Exh. 4) (AA 0047-48)	FRE 401-403, 802	Relevant to liability, punitive damages, and injunctive relief; FRE 802(d)(2); 803(6).
N	DOT message to airlines, September 21, 2001 (AA 0050) (also CRQ 0060)	FRE 401-403, 802	Relevant to punitive damages and injunctive relief; FRE 803(6); 803(8).

O	DOT guidance on nondiscrimination (CRQ 0058-59) (also AA 0051-53)	FRE 401-403, 802	Relevant to punitive damages and injunctive relief; FRE 803(6); 803(8).
P	Kudwa messages to pilots (Deposition Exh. 10) (AA 0056-0057)	FRE 401-403, 802	Relevant to liability, punitive damages, and injunctive relief; FRE 802(d)(2); 803(6).
Q	“Dear Crewmember” letter dated June 26, 2002 (Deposition Exh. 19) (AA 0096)	FRE 401-403, 802	Relevant to liability, punitive damages, and injunctive relief; FRE 802(d)(2); 803(6).
R	Kudwa Hotline Message, August 12, 2002 (Deposition Exh. 17) (AA 0097-98)	FRE 401-403, 802	Relevant to liability, punitive damages, and injunctive relief; FRE 802(d)(2); 803(6).
S	DOT policy statements and guidance regarding unlawful discrimination (CRQ 0058-61)	FRE 401-403, 802	Relevant to punitive damages and injunctive relief; FRE 803(6); 803(8).
T	Documents re: DOT Enforcement Proceeding, OST No. 2003-15046 (CRQ 0062-128)	See motion in limine	See opposition to motion in limine

U	Consent Order, DOT Enforcement Proceeding, OST No. 2003-15046 (CRQ 0129-133)	See motion in limine	See opposition to motion in limine
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